

MEMORANDUM IN SUPPORT OF PLAINTIFF’S MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT

Pursuant to Fed. R. Civ. P. 15, Plaintiff moves for entry of an Order granting it leave to file a Second Amended Complaint and submits the following Memorandum in support.

I. INTRODUCTION

On April 5, 2021, Plaintiff received notification through Google Firebase Cloud software that someone had submitted a response to the inquiry form Plaintiff maintains for his coaching business. The email address specified for each form submission referred to a prominent venture capital firm listed on Plaintiff’s website as a firm that has invested in a company led by one of Plaintiff’s coaching clients, the names of which are located on his website on the “About” page.

Each form submission provided claimed to be from “Founder” and reads: “T[homas] Korula, I hear you raped a woman who founded a startup in New York and were fired from Reboot after the incident went to police. Why are you coaching?”.

Through the Second Amended Complaint, Plaintiff seeks to add a new Doe Defendant—Doe Defendant 13—due to this harassment event taking place on April 5, 2021.

II. ARGUMENT

Federal Rule of Civil Procedure 15(a) provides that “a party may amend its pleading [with] the court’s leave” and that “[t]he court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Supreme Court has directed “this mandate is to be heeded.” *Foman v. Davis*, 371 U.S. 178, 182 (1962). The leave sought should be freely granted in the absence of (1) there is evidence of undue delay, bad faith, dilatory motive, or repeated failure to cure deficiencies by amendments previously allowed; (2) allowing amendment would cause undue

prejudice to the opposing party; or (3) the amendment would be futile. *Morales v. Valley Stream Union Free School District 24*, 2021 WL 1049891, *5 (E.D.N.Y. 2021).

Allowing Plaintiff to file the Second Amended Complaint would serve justice and promote judicial efficiency, as this most recent incident is consistent with the pattern of conduct addressed in the Amended Complaint. There is no evidence that Plaintiff has acted with undue delay, as this latest incident occurred mere days ago, and there is no evidence of Plaintiff's bad faith or dilatory motive. There is also no deficiency with the current Amended Complaint. By allowing the amendment, there will be no undue prejudice to the opposing party.

Further, the amendment would not be futile, as the case is in its early stages, and Plaintiff is working to identify and serve process to the Defendant.

III. CONCLUSION

Based on the above-stated reasons, Plaintiff respectfully requests this Court grant leave to amend his Complaint pursuant to Fed. R. Civ. P. 15(a).

Respectfully submitted this April 9, 2021.

Dated: April 9, 2021

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